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April 21, 2006

Dr. Eric P. Schlaf  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, IL 62701

**Re: Response to April 5, 2006 Retail Competition Workshop Process  
Notice**

Dear Dr. Schlaf:

The Coalition of Energy Suppliers ("Coalition"), currently comprised of Constellation NewEnergy, Inc., Direct Energy Services, LLC, MidAmerican Energy Company, Peoples Energy Services Corporation, and U.S. Energy Savings Corp., appreciates the Illinois Commerce Commission ("Commission") establishing this Retail Competition Workshop Initiative ("Choice Initiative") to address issues concerning the development of Illinois' competitive retail electric markets. The long-term development of competitive retail markets is strengthened when interested parties, pushed by Commission led initiatives such as this "Choice Initiative," work collaboratively to foster retail competition. The Coalition looks forward to working with Commissioners, Staff, customers, utilities, other RESs, and other market participants to address these issues as expeditiously as possible, in a manner that is both equitable and consistent with the General Assembly's direction to foster the development of competitive electric markets in Illinois.

The Coalition has provided responses below to the questions posed in your April 5, 2006 Notice.<sup>1</sup> Additionally, the Coalition has included as Attachment A to this letter, a more expansive discussion of some of the guiding principles that it believes may help initiate and orient the upcoming workshop discussions. The preliminary comments in this letter and in Attachment A are designed to foster discussion. The Coalition expressly reserves the right to

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<sup>1</sup> The positions set out herein and in Attachment A represent the positions of the Coalition as a group, but do not necessarily represent the positions of individual Coalition member companies.

take additional or different positions, both in the context of these discussions, and in any subsequent docketed proceeding. Indeed, the Coalition anticipates that its members, along with others who participate in this dialogue, will learn from this process, and that parties will strive to reach common ground in order to help the Commission foster the development of competitive electric markets in Illinois.

The Coalition provides the following response to the specific questions you provided in your April 5, 2006 Notice:

**The Coalition would define retail competition as:**

Retail Competition: Retail competition is characterized by the ability of consumers to choose from multiple alternatives with varying value propositions to best suit their needs. The competitive process that suppliers and consumers engage in to develop these alternatives leads to innovation and a furtherance of consumer benefits as competitors seek the business of individual customers. Retail competition depends on low barriers to entry and on clear, transparent legal institutions governing the terms on which rival firms compete. The transition from monopoly to competitive retail markets requires ongoing and active regulatory oversight.

**Topics for Future Workshops**

In its notice to interested parties regarding the Commission's retail electric competition workshop initiative, Staff suggests that parties provide a list of topics that future workshops should address as well as provide suggestions as to the most appropriate process (e.g. in person workshops, conference calls, etc.) to address each topic.

The Coalition has identified a number of topics that it believes warrant further discussion. The list is not meant to be exhaustive. The Coalition reserves its right to amend or alter this list at a future date. The Coalition notes that some of these topics may engender additional workshops of their own. As for the process issues (in person workshop, conference calls, etc.), the Coalition is willing to use whatever process the Staff believes will best move these issues along in a thoughtful and expeditious manner.

**The Commission's Mandate to Promote Retail Competition**

A common theme in jurisdictions where retail competition has flourished is the presence of state utility regulators devoting significant time to retail issues and taking an active role in promoting retail competition. Indeed, many of the competitive advances that Illinois has enjoyed would not have occurred had it not been for the hard work of Commissioners, Commission Staff members, industry participants and government and consumer interveners. The Coalition

appreciates the many competitive strides that have been made in Illinois, thanks to the many parties involved.

The Coalition is also keenly aware of the budgetary and personnel constraints facing the Commission and the effect those constraints have on the Commission's ability to actively promote retail competition. The Coalition believes that ongoing, active Commission involvement is critical to furthering the development of the retail market in Illinois. Toward that end, the Coalition would be interested in a workshop to explore ways that all interested parties could work together to ensure the Commission has the resources in terms of personnel and budget to promote retail competition. The Coalition would also be interested in working with the Commission and other industry participants to explore ways industry participants could partner with the Commission to promote retail competition.

#### **Purchase Of Receivables / Utility Consolidated Billing**

"... [New York Public Service Commission Staff] described such a [Purchase of Receivables] program as the single most constructive step Con Edison could take to further retail choice."

New York Public Service Commission Order adopting 3-Year Rate Plan for Consolidated Edison.<sup>2</sup>

The Commission should strongly encourage ComEd and the Ameren companies to implement a Purchase of Receivables / Utility Consolidated Billing ("POR / UCB") plan similar to the proposal made by the Coalition in the ComEd delivery services rate case (ICC Docket No. 05-0597). A POR / UCB plan would encourage the development of the competitive retail electric markets for residential and small commercial customers in Illinois.

Importantly, under the Coalition's proposal, RESs still would retain the right to offer a single billing option ("SBO"), in which the RES bills for both the utility and RES charges, to any customer regardless of the size of the customer. Thus, the electric utility would still be required to offer the following billing: SBO, POR / UCB, and a "dual-billing" model in which the RES may issue its own bill for its commodity charges.

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<sup>2</sup> New York Public Service Commission, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service*, Order Adopting 3-Year Rate Plan at 42-43 (March 24, 2005).

Under UCB programs, the utility provides a single bill for its own charges as well as the RES' charges. The utility receives the charges that the RES wants to include on the bill through an electronic transaction. The utility does all of the regular billing and payment processing functions that it already does for its bundled customers and then forwards payment to the RES for its charges. UCB programs are in place in most deregulated retail energy markets across North America, including at ComEd's sister utility, PECO, and possible sister-to-be, PSEG and Illinois gas utilities, Peoples Gas, North Shore Gas and Nicor Gas. UCB is an efficient platform for a utility to operate a POR program, and the combined POR / UCB structure would be appropriate for Illinois.

Under POR programs, the utility reimburses the RES for its customer billings regardless of whether the utility received payment from the customer. The utility is made financially whole by recovering the uncollectible amounts and program administration expenses through one of two options: (1) a discount rate equal to the utility's actual uncollectible amount that offsets the payments to the RES, and is subject to a periodic reconciliation process; or (2) an element of the utility's base rates.

Under a POR program, customers benefit directly from an increased access to competitive choices; economies of scale are achieved by designating one party to handle all credit and collections and several consumer protection functions. Duplicating credit and collections functions at the utility, and at each RES, needlessly creates costs ultimately borne by customers. A POR program frees residential and small commercial customers from potentially being required to post two separate security deposits, and allows customers previously terminated due to non-payment to avoid contending with two payment plans upon their return to service.

By encouraging RESs to accept residential and small commercial customers, not only those with good credit scores, POR programs facilitate the migration of customers who might otherwise be overlooked by RESs due to poor credit scores or past financial troubles. In fact, by allowing low income and poor credit scoring customers to participate, POR programs open up competitive choices to the very customers who might most need it. In addition, utilities that implement POR programs avoid the problem of RESs serving only good credit customers, leaving the poor credit customers on utility service where they will escalate costs to all remaining bundled customers.

Thus, adoption of a POR program in Illinois would alleviate the need for electric utilities to predict volatile uncollectible rates while enabling all customers, not just those with the best credit histories, the ability to choose an electric supply product that best meets their needs. The Commission should embrace the competitive benefits that will accrue to Illinois through the adoption of the Coalition's POR / UCB program.

## **Operational Issues**

Retail Electric Suppliers face a host of operational issues in interacting with incumbent electric utilities. Oftentimes, the incumbent utilities' processes and tendencies unnecessarily frustrate RESs ability to provide retail customers with the full breadth of services and options available to them. As such, many customers electric supply options are limited not by a lack of appetite or desire, but by the manner in which the incumbent implements its operational processes.

When business-to-business efforts to resolve such disputes fail, RES' often are forced to litigate those disputed issues in formal, docketed proceedings before the Commission. The Coalition would be interested in working with the Commission and other industry participants to develop less formal methods of escalating these types of operational-issue-disputes to the Commission's attention for timely resolution.

## **Referral Programs**

In New York, incumbent utilities offer RES' referral programs to promote retail switching. These utility-run programs facilitate retail access enrollment, offering customers a two-month commodity price discount from a participating RES. The New York Public Service Commission recently issued an Order adopting guidelines and requiring the development of similar programs for each of New York's major electric and gas utilities.<sup>3</sup> The Coalition would be interested in working with the Commission and other industry participants to determine the appropriate use of similar referral programs in Illinois.

## **Default Service**

The presence of incumbent, regulated utilities as retail providers poses a challenge for the emergence of robust retail competition. To the extent that an incumbent utility can leverage its incumbency to maintain retail entry barriers, this challenge will persist in 2007 and beyond, and could hamper competitive market processes. Thus, continuing attention to the nature of default utility service is crucial, because poorly-structured default service is one of the most damaging

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<sup>3</sup> See generally New York Public Service Commission, *Order Adopting ESCO Referral Program Guidelines And Approving An ESCO Referral Program Subject To Modifications* (December 22, 2005).

entry barriers facing potential competitors. Furthermore, default service should continue to be reevaluated as other market design policy decisions are made.

### **Ability to Enroll Residential Electric Customers Telephonically**

Telephonic enrollment of residential customers with independent third party verification has been successfully used by telecommunications companies and alternative gas suppliers in Illinois for several years. Telephonic enrollment provides marketers with the ability to market their products effectively and efficiently. Properly structured, telephonic enrollment streamlines customer participation in energy competition while still providing appropriate protection for consumers.

All the members of the Coalition look forward to working with you to further encourage the development of a competitive retail electric market in Illinois.

Sincerely,

**CONSTELLATION NEWENERGY, INC.  
DIRECT ENERGY SERVICES, LLC  
MIDAMERICAN ENERGY COMPANY  
PEOPLES ENERGY SERVICES  
CORPORATION  
U.S. ENERGY SAVINGS CORP.**

By: /s/Christopher J. Townsend  
Christopher J. Townsend

CJT/ly  
Enclosure